

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

MICHAEL L WINSTON,

Plaintiff,

-vs-

Case No. 15-CV-1398

**DAVID A CLARK,
KEONA GARTH-DICKENS,
BRANDON LAWLER,
NURSE CHRIS,
JOHN DOES #1-10, C/O,**

Defendants.

ORDER

On November 23, 2015, Michael L Winston, filed a *pro se* complaint under 42 U.S.C. § 1983 alleging that his constitutional rights were violated at the Milwaukee County Jail. The court screened his complaint on March 18, 2016, and it dismissed Jane Doe nurses #1 and #2 for failure to state a claim. (ECF. No. 17). This matter comes before the court on the plaintiff's motion to amend the complaint and add allegations of negligence and medical malpractice against John Doe nurses #1 and #2. (ECF No. 18 ¶2).

The plaintiff's motion to amend the complaint and proposed amended complaint essentially rehash the same facts he alleged in his original complaint, and he reasserts negligence and medical malpractice on the part of Jane Doe nurses #1 and #2. Negligence and medical malpractice

are not actionable in suit under 42 U.S.C. § 1983. *Walker v. Peters*, 233 F.3d 494, 499 (7th Cir. 2000); *see also Thomas v. Farley*, 31 F.3d 557, 558 (7th Cir. 1994); *see also Antonelli v. Sheahan*, 81 F.3d 1422, 1429 (7th Cir. 1996). Negligent conduct on the part of a state official is insufficient to constitute a constitutional violation. *Daniels v. Williams*, 474 U.S. 327, 331, 333-34 (1986); *Davidson v. Cannon*, 474 U.S. 344, 347-48 (1986); *Russ v. Watts*, 414 F.3d 783, 788-89 (7th Cir. 2005). Therefore, the plaintiff's motion to amend/correct the complaint will be denied.

ORDER

IT IS THEREFORE ORDERED that the plaintiff's motion to amend/correct the complaint (ECF No. 18) is **DENIED**.

Dated at Milwaukee, Wisconsin, this 5th day of May, 2016.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge